



July 7, 2006

ELECTRONICALLY FILED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

***Ex Parte* Notice**

Re: CC Docket Nos. 96-45 and 02-6
Appeal of Achieve3000 from SLD Administrator's Decision Letter,
dated January 12, 2006.

Dear Ms. Dortch:

On July 6, 2006, Ilene Rosenthal, Achieve3000's President, Strategic Initiatives; George McDonald of E-rate Central; and the undersigned, met with Ian Dillner, Legal Advisor to Commissioner Tate, to discuss the issues raised by the appeal captioned above and summarized in the attached meeting handout.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), copies of this letter and attachment are being filed with the Office of the Secretary.

Sincerely,

A handwritten signature in black ink that reads 'Colleen Boothby'.

Colleen Boothby

Attachment

Problem: A simple error by USAC is damaging our business and forcing schools to abandon important safety features for children learning to use email.

Solution: Expedited action on the appeals pending before the WCB

Background

- Achieve3000 provides schools with Email3000, an email program for students, with standard email features and functions.
- Achieve3000's primary product is a reading program, KidBiz3000, that includes Email3000 for delivery of individualized reading material to students.
- Email3000 allows schools to provide a safe, spam-free, kid-friendly alternative to traditional POP3 e-mail accounts.
 - Schools can choose to configure the service to restrict messaging – by classroom, grade, school, or district, depending on the preferences and policies of the individual school district. Schools can also include parents.
 - Schools demand this feature from their email programs in order to keep students safe and protect the school from liability.
- Email service and Email account fees are included on the FCC's eligible services list, which describes them as follows:
 - "E-mail service provides for the transmission of simple text messages and other embedded data."
 - "E-mail account fees are charges for individual user access to e-mail services."

SLD's Actions

- SLD has denied five funding requests that included Email3000

New Orleans Public Schools

Funding Commitment Decision Letter – Dec. 3, 2004

District of Columbia Public Schools

Funding Commitment Decision Letter – June 21, 2005

East Orange School District, New Jersey

Funding Commitment Decision Letter – Nov. 16, 2005

Freehold Borough School District, New Jersey

Funding Commitment Decision Letter – May 10, 2006

West New York School District, New Jersey

Funding Commitment Decision Letter – May 16, 2006

Additional funding requests that were already granted are at risk of commitment adjustment letters.

- SLD's rationale
 - "E-mail accounts that are limited only to a small portion of the Internet e-mail community does [sic] not fit within the FCC's eligibility requirements for Internet access."
- SLD's rationale is simply incorrect
 - The Commission's Eligible Services List contains no such limitation
- SLD's mistake is damaging our small business
 - Kid-friendly email services are the marketplace norm, not the exception
 - Schools are using – and SLD is continuing to fund – nearly identical email products from other vendors
 - We need a level competitive playing field to survive
 - SLD's action has produced confusion, expense, and delay for schools planning to include Email3000 in applications for the new funding year
- SLD's mistake is hurting the school children we serve
 - School choice regarding access restrictions is imperative to protect vulnerable users from imminent harm

Action we seek

- We need expedited relief from SLD's erroneous
- If the Commission wants to change the rules of the road for e-mail service, do it the right way – prospectively, as to all vendors, in the next eligibility list rulemaking